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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 21.12.2007.

1. Gulwant Singh Virk, Tehsildar Panchkula,
son of Shri Kulwant Singh,
resident of House No.174/9, Ambala City.
2. Ajay Kumar, Clerk in the office of Tehsildar, Panchkula,
son of Raghuvir Singh,
resident of House No.69, Abhepur, Panchkula.

.... Petitioners

vs

State of Haryana.

.... Respondent.

Judgment

Before : Hon'ble Mr. Justice R.S.Madan.

Present: Mr.K.S.Dhaliwal, Advocate,for the petitioners.
Mr.P.M.Anand, Additional Advocate General, Haryana.

R.S.Madan, J.

This criminal revision has been filed by Gulwant Singh Virk Tehsildar and Ajay Kumar Clerk, who had been sent up for trial before the learned Judicial Magistrate, Panchkula on the basis of a complaint filed by Parma Nand. The learned Magistrate on May 26,2001 came to the conclusion that there was insufficient ground for framing charge against the petitioners and their other co-accused. They were accordingly discharged. The State went up in appeal against the order of discharge, which was allowed by the learned Additional Sessions Judge, Panchkula on February 20,2002 and it was directed that the case be remanded back to the learned trial Court for framing charge of conspiracy under Section 120-B and also

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under Sections 467/468/472 and 420 I.P.C. The order of the learned Additional Sessions Judge has been challenged in this revision petition.

The facts of the case are that Puneet Aggarwal held a General Power of Attorney of Daya Ram of Railly, who was owner of 20 Marlas of land in Khasra No. 36. After Daya Ram died on January 25,1999, Puneet Aggarwal obtained no objection from the Deputy Commissioner to sell the plot and he gave the wrong dimensions of the property in his application filed for getting no objection certificate. Consequently the no objection certificate also showed these dimensions, which were incorporated in the sale deed executed in favour of Ramesh Kumar and Rupinder Parkash Singla. In the revenue record Khasra No.36 has been shown to be triangular, whereas in the sale deed dated March 10,1999 the plot has been shown as a square one.

According to the learned counsel for the petitioners, Puneet Aggarwal, the General Power of Attorney of Daya Ram had executed a sale deed in respect of 10 Marlas out of the holding of Daya Ram on January 6,1999 for Rs.4.80 lacs and the second sale deed on March 10,1999 also for Rs.4.80 lacs. The dispute was with regard to the second sale deed because Daya Ram died on January 25,1999 before the sale-deed was executed. The sale deed had been executed after obtaining a no objection certificate from the Revenue Department.

It was argued on behalf of the petitioners that the petitioners had no intention to cheat anybody. They are only the officials of the registering authority. Petitioner no.1 is the Tehsildar who has registered the sale-deed and petitioner no.2 is the clerk posted in the office of Tehsildar. Admittedly, both the petitioners have nothing to do with the transaction

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which led to the execution of sale-deed by Punit Kumar Aggarwal. They are not party to the transaction. Be that as it may, no criminal offence is made out against the petitioners and they cannot be held guilty for the transaction as they acted in good faith and registered the sale-deed as per their official duties. Petitioner no.1 was bound to comply with the no objection certificate issued by the Deputy Commissioner. He has nothing to do with the plot whether it is triangular or square. He is bound to register the document.

It is a case where the complainant Parma Nand has no role to play. In case there was any aggrieved person, it was Rupinder Parkash Singla who could have agitated the matter. But, he was satisfied with the return of money. Learned Judicial Magistrate 1st Class, Panchkula, while discharging the petitioners and other accused has recorded a well reasoned order, whereby the petitioners and other accused were discharged as no case was made out against them.

It is also pertinent to mention here that proceedings against one of the co-accused namely Harbans Singh Patwari, have already been quashed by this court in Criminal Revision No.1025 of 2002 vide order dated 20.10.2005. The case of the petitioners is also on the same footing.

In view of the above discussion, this petition is accepted and the order passed by the learned Additional Sessions Judge is hereby set aside.

21.12.2007. **(R.S.Madan)**
vs. **Judge.**